

REMARKS

Applicant's attorney is appreciative of the interview granted by Examiners Lewis and Patel on February 20, 2009.

At that interview, the rejection of the claims as anticipated by or obvious over the Casey reference was discussed. Applicant's attorney pointed out that independent Claim 11 was in a Jepson format, and in that format, positively recited all elements of the invention, including a bracket system, a molar tube, and an arch end projecting from the distal end of the molar tube. Combined with those prior art elements was an improvement comprising an oral mucous membrane protector comprising a protective element constructed and arranged to cover or envelop the end of the arch and a fixing means integrally joined to and extending from the protective element and fixed to the bracket system surrounding the molar tube behind flaps thereof.

Applicant's attorney further pointed out that contrary to the allegation made in the Office action, Claim 11 clearly recited all structural elements of the invention, and was not merely functional or a statement of intended use.

As noted at the interview, while the Casey reference may show an element which could be designated as a "protective element" with an integral fixing means, Casey clearly did not show an orthodontic application including a bracket system and a molar tube, and did not show such a protective element covering or enveloping the end of the arch, and fixed to the bracket system surrounding the molar tube behind flaps thereof.

The Examiners agreed that Casey did not show all elements of the invention in an arrangement as claimed in Claim 11, and further agreed to withdraw the rejections of record and to conduct a further search.

If the claims are further rejected based upon newly

located prior art, Applicant notes that based upon the discussion at the interview, such a rejection would not be necessitated by any amendments to the claims, and therefore any new rejection should not be made a final rejection.

Based upon the request of Examiner Lewis, Applicant has made several minor changes to Claim 11 to clarify the subject matter thereof. Thus, Claim 11 has been amended to recite that the orthodontic application is "adapted to be disposed" in the mouth of a patient. Further, the "fixing means" has been changed to "a fixing element" based upon the recitation of structure of this element. However, these amendments are amendments of form only, and are not seen to change the scope of the invention as claimed.

Withdrawal of the rejections of record is requested.

In view of the foregoing amendments and remarks, Applicant submits that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



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